

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:19-cr-00086-JPH-DLP
)	
JUDE SAYLES,)	
)	
Defendant.)	

**ORDER DENYING EMERGENCY MOTION FOR RELEASE
FROM DETENTION BASED UPON THE COVID-19 PANDEMIC**

This matter is before the Court on Defendant, Jude Sayles’ (“Sayles”) Emergency Motion for Release from Detention Based Upon the Covid-19 Pandemic ([Filing No. 37](#)). Sayles asks the Court to grant him release from detention due to the Coronavirus (“COVID-19”) pandemic. The Government filed its Response in Opposition on April 8, 2020. (Filing No. 40.) For the following reasons, the Motion is **denied**.

I. BACKGROUND

Sayles, a 51-year-old male, is presently detained at Henderson County Detention Center in Henderson, Kentucky. On March 12, 2019, Sayles was charged by Indictment with one count of Felon in Possession of a Firearm, in violation of 18, U.S.C. § 922(g)(1). ([Filing No. 1](#).) He was arrested and appeared before the Magistrate Judge for an initial hearing on April 26, 2019. Sayles waived his right to a detention hearing ([Filing No. 16](#)) and he was remanded to the custody of the U.S. Marshal pending disposition of his case.

On August 13, 2019, a Petition to Enter a Plea of Guilty and Plea Agreement was filed with the Court and Sayles agreed to plead guilty to the count in the Indictment. ([Filing No. 26](#).) The Final Pre-sentence Investigation Report was filed on December 12, 2019. (Filing No. 30.) The

change of plea and sentencing hearing was scheduled for March 17, 2020, but it was continued due to the pandemic. A change of plea and sentencing hearing will be rescheduled as soon as safe conditions for the hearing are determined.

Sayles requests temporary release to home incarceration because he has a documented and confirmed pre-existing condition-- Pulmonary Lung Disease--and he “is particularly vulnerable to ... due to [his] long-standing lung condition.” ([Filing No. 38 at 12.](#)) He indicates that masses on his left lung in 2017 resulted in surgery and hospitalization, and that he has an inferior vena cava (IVC) filter in place. *Id.* ([Filing No. 37.](#)) Sayles requests pretrial release and supervision by the United States Probation Office pursuant to 18 U.S.C. § 3142(i), because he is a person at risk for serious illness or death from COVID-19. *See* CDC (March 12, 2020) at <https://bit.ly/2vgUt1P>. He asks for temporary release to home confinement with GPS monitoring, where he could be quarantined to his home. Sayles proffers that he would reside with his daughter in Greenwood, Indiana.

II. ANALYSIS

As an initial matter, the Court determines that a hearing is not necessary. When a criminal defendant appears before a judicial officer, the judicial officer must order the “pretrial release” of the person, subject to certain conditions, unless “the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person in the community.” 18 U.S.C. § 3142(b). The judicial officer “may, by subsequent order, permit the temporary release of the person ... to the extent that the judicial officer determines such release to be necessary for preparation of the person’s defense or for another compelling reason.” *Id.* § 3142(i).

The Government opposes Sayles' Motion arguing that his release under any circumstances represents an unacceptable danger to our community and a substantial risk of nonappearance. They assert that Sayles has a lengthy criminal history consisting of eight prior felony convictions, including robbery with a firearm. In addition, Sayles has been arrested more than 30 times, committed numerous probation/community corrections violations and failed to appear on several occasions. Sayles's most recent violations include failing to report after his release from the Hamilton County Jail and failure to charge his location monitoring device so that his whereabouts were unknown. It was under these circumstances that Sayles led officers on a high speed chase with a firearm, methamphetamine and heroin in the vehicle leading to the present charge that he is pleading guilty to. The Government notes that Sayles history gives him 13 criminal history points and he is facing a possible sentence of 63 to 78 months.

At the Court's request, the United States Probation Office has assessed whether any conditions or combination of conditions would ensure the safety of the community if Sayles were released due to the COVID-19 pandemic. According to the actuarial tables in the probation Risk Instrument, Sayles is a risk Category 5. He has a 7% chance of failing to appear; a 13% chance of obtaining a new criminal arrest; a 19% chance of having a technical violation; and an overall risk of violating release conditions of 35%. The risk Category 5 indicates that Sayles is a high risk of flight and/or danger to the community. The probation officer recommends detention.

It is undisputed that the entire United States—including Indiana and Kentucky—is in the midst of a COVID-19 pandemic. Sayles seeks release from detention because the COVID-19 virus attacks the elderly and those with underlying health conditions. He cites his pulmonary lung disease and heart issues as the basis for his release. Sayles Pulmonary Lung Disease is documented and confirmed in his Pre-Sentence Investigation Report, and is considered a condition that would

put him in a higher risk category in connection with the COVID-19 virus. That said, there is risk in releasing Sayles to the community. He has eight prior felony convictions, including the offense of Robbery (with a firearm). The resources of the United States Probation Office are presently limited, and the Court finds no combination of conditions exist that will ensure the safety of the community if Sayles is released. Therefore, his Motion is **denied**

III. CONCLUSION

For the reasons set forth above, Sayles' Emergency Motion for Release from Detention Based Upon the COVID-19 Pandemic, ([Filing No. 37](#)), is **DENIED**. Sayles' Presentence Investigation Report has been completed and he is ready to be sentenced. He may petition the Court for an expedited change of plea and sentencing hearing under safe conditions. If he is able to consent to a video teleconference hearing, the Court may be able to schedule an expedited sentencing hearing.

SO ORDERED.

Date: 4/20/2020

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TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana